

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

CH Robinson Worldwide, Inc.,

Plaintiff,

v.

Maxxum Group, LLC, *et al.*,

Defendants.

---

**BRIEF OF TETRAPOLY**  
**DEFENDANTS IN SUPPORT OF**  
**REMOVAL**

This brief is submitted in compliance with the Court’s June 30, 2010 Order [Doc. 24] that Defendants Tetrapoly, LLC, Brian Donahue, and Andrew Kowalski (the “Tetrapoly Defendants”) “show cause why the court should not summarily remand this action to the state court.”

The Tetrapoly Defendants – the only served defendants in this matter – removed this lawsuit pursuant to 28 U.S.C. §§ 1332 and 1441. *See* Notice of Removal, ¶ 4 [Doc. 1]. The Tetrapoly Defendants alleged that Tetrapoly, LLC, Brian Donahue, and Andrew Kowalski are citizens and residents of Ohio. *Id.* As the Court notes in its Order, however, the Tetrapoly Defendants did not clarify that each and every member of Tetrapoly, LLC is a citizen of Ohio.

Accordingly, the Tetrapoly Defendants file this Brief and the attached affidavits of the three members of Tetrapoly, LLC – Brian Donahue, Andrew Kowalski and Matthew Kowalski – to clarify that each and every member of Tetrapoly, LLC is a resident and citizen of Ohio. As stated by Brian Donahue in his Affidavit [Doc. 18], Mr. Donahue,

Shawn Stine, Tim Carter, Andrew Kowalski and Matthew Kowalski initially met and decided to start their own business, splitting ownership amongst themselves and choosing the name “Tetrapoly.” However, changes in ownership were made as they discussed capital requirements and other aspects of formation of the new business. Thereafter, Tim Carter became an employee of Tetrapoly, LLC rather than a member, and Shawn Stine left to pursue an opportunity with a competitor in the plastic commodities trading business. By the time of filing the LLC papers with the Secretary of State of Ohio, there were three members of Tetrapoly, LLC – Brian Donahue, Andrew Kowalski, and Matthew Kowalski – and these three individuals, each of whom is an Ohio resident and citizen, remain the only members. *See* attached Affidavits.<sup>1</sup>

Because each of the members of Tetrapoly, LLC is a resident and citizen of Ohio, and Plaintiff is a citizen and resident of Minnesota (*see* Complaint, ¶ 1), the Tetrapoly Defendants have met their burden of establishing complete diversity under 28 U.S.C. § 1332.

MOSS & BARNETT  
A Professional Association

Dated: July 1, 2010

By s/Mathew P. Kostolnik  
Matthew P. Kostolnik (#310669)  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129  
Telephone: (612) 877-5000  
Facsimile: (612) 877-5999  
kostolnikm@moss-barnett.com

---

<sup>1</sup> Although they are not members of Tetrapoly, LLC, it should be noted that Shawn Stine and Tim Carter are, upon information and belief, residents and citizens of Ohio.

and

David D. Yeagley (Ohio Bar No. 0042433)

Paul R. Harris (Ohio Bar No. 0079538)

ULMER & BERNE LLP

1660 West 2<sup>nd</sup> Street, Suite 1100

Cleveland, Ohio 44113-1448

Telephone: (216) 583-7000

Facsimile: (216) 583-7001

[dyeagley@ulmer.com](mailto:dyeagley@ulmer.com)

[pharris@ulmer.com](mailto:pharris@ulmer.com)

Attorneys for Defendants Tetrapoly, LLC,  
Brian Donahue, and Andrew Kowalski

1621617v1